

SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD
May 24-28, 2004

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
5-21**	OPP OPP	91150958 91150961	Red Bull GmbH v. American Baseball Co., Inc.	Bucher Bottorff* Holtzman	2(d)	Opposition Dismissed in both cases	"RED BULL" [trade name use and use as a trademark for malt liquor, various non-alcoholic beverages, including energy drinks and sports drinks, and for other products and services, including balls for baseball and sports events and competitions, namely, baseball and football games]; "BULL" [energy and sports drinks]; "ENERGY BULL" [sports and energy drinks, <i>etc.</i> ; technical consultation and research services in the field of food and beverages, health and fitness, sports, sports training and physical performance]; "SPEEDY BULL" [energy and sports drinks, <i>etc.</i>]	"BULL NECK" <i>and</i> "PLAY BALL WITH THE BULL" [<i>both marks for</i> leather sports equipment, namely, baseball gloves]			No
5-25	EX	76318049	Downey Products, Inc.	Seeherman Walters* Rogers	2(e)(4)	Refusal Affirmed		"DOWNEY LTD" [fitted tonneau covers for motor vehicles]		Le	No

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(2) *=Opinion Writer; (D)=Dissenting Panel Member

**Inadvertently omitted from the weekly summary for May 17-21, 2004

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5-25	OPP	91124237	Treasures & Trinkets, Inc. v. Janet Hess and Rod Hess	Seeherman* Hairston Drost	2(d)	Opposition Sustained	"GUARDIAN ANGEL" [greeting cards, greeting cards with guardian angel jewelry pin attached; bookmarks; t-shirts for adults and children; bibs, bonnets, and booties for infants and children; handkerchiefs and garter belts; picture frames and decorative wall plaques; ceramic statues; candles; Christmas tree ornaments; electronic night light; cat and dog collars of leather, imitation leather, and nylon; pet clothing]	"MY ANGEL GUARDIAN" (and design) [printed certificates, posters, post cards; short and long sleeved shirts, sweatshirts, t-shirts, sweaters, jackets, hats, pajamas, sleepers, nightshirts, rompers, pants, sport shirts, sweat suits, coats, vests, overalls, dresses, pullovers, warm up suits, tank tops, running suits]			No
5-25	EX	76323231	lentry, Inc.	Seeherman* Hohein Hairston	2(d)	Refusal Affirmed as to all cited registrations		"WEBPRONEWS" [computer services, namely, providing a collection of accessible news stories in the field of technology, business, and computers on a world wide computer network]	<i>3 cited registrations, all owned by the same entity:</i> "WEB PRO" [books, magazines, catalogues, manuals, brochures, pamphlets, guides and newsletters in the field of on-line information services]; "WEB.PRO" [newsletters in the field of information technology]; "PRO NEWS" [section of magazine dealing with computers and video games]	I. A. Clarke	No

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5-26	EX	76375801	Leiner Health Services Corp.	Simms Hairston* Holtzman	2(d)	Refusal Affirmed		"NATURE'S FOCUS" [vitamins and dietary food supplements]	"NATURAL FOCUS" [vitamin, mineral and protein supplements for human consumption]	R. McMorrow	No
5-26	EX	76040505	U.S. Education Finance Management Corp.	Chapman Bucher Drost*	2(e)(2)	Refusal Affirmed		"U.S. PRESTAMOS ESTUDIANTILES" [education loan services; brokering education loans]		Gast	No
5-26	EX	76447144	Pierce Products, LLC	Quinn Hohein* Holtzman	2(e)(1)	Refusal Affirmed		"PC CADDY" [a plastic container designed solely for use with computers and computer printers attached to same as an accessory to hold notes and memoranda]		Weimer	No
5-26	CANC	92029831	Loring Coat Co. v. Pedro Estevan Poveda and Emilio Estevan Poveda	Simms Hohein* Drost	abandonment	Petition to Cancel Denied	"P.J. SKIPPER" [men's overcoats]	"SKIPPER" [clothing, namely, shirts, trousers, jackets, sweaters, shorts, belts, suits, vests, coats, skirts, blouses, scarves, ties, socks, track suits, jerseys, hats, and footwear (<i>during the course of the proceeding, registrant amended the goods in its registration, to "footwear" only</i>)]			No

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5-26	OPP (SJ)	91156105	Principal Financial Services, Inc. v. Beacon Bank	Quinn Hairston Chapman [Opinion "By the Board" (Wellington)]	2(d)	Opposition Sustained (Opposer's motion for summary judgment granted)	a family of marks that consist of or incorporate a black triangle design, including: a design mark consisting of a black triangle [financial analysis and consulting, financial investment in the field of securities for others and securities brokerage services; life, health, accident and casualty insurance and reinsurance underwriting; commercial and residential real estate services; administration of healthcare plans and insurance claims administration for health care plans; <i>and a variety of other services</i>]; "PRINCOR" (and design) [administering and marketing mutual funds and securities]; "THE PRINCIPAL" (and design) [health care services rendered through PPOs and HMOs <i>and other services</i>]; <i>and several other similar "black triangle" marks for related services</i>	"BEACON" (and design incorporating a black triangle) [business and consumer banking services]			No

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5-26	OPP (SJ)	91156074	Principal Financial Services, Inc. v. Beacon Bank	Quinn Hairston Chapman [Opinion "By the Board" (Wellington)]	2(d)	Opposition Sustained (Opposer's motion for summary judgment granted)	a family of marks that consist of or incorporate a black triangle design, including: a design mark consisting of a black triangle [financial analysis and consulting, financial investment in the field of securities for others and securities brokerage services; life, health, accident and casualty insurance and reinsurance underwriting; commercial and residential real estate services; administration of healthcare plans and insurance claims administration for health care plans; <i>and a variety of other services</i>]; "PRINCOR" (and design) [administering and marketing mutual funds and securities]; "THE PRINCIPAL" (and design) [health care services rendered through PPOs and HMOs <i>and other services</i>]; <i>and several other similar "black triangle" marks for related services</i>	"BEACON BANK" (and design incorporating a black triangle) [business and consumer banking services]			No

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5-27	EX	76338469	Wet Seal, Inc.	Hairston Bucher Holtzman*	2(d)	Refusal Reversed in all three classes		“SEAL” [in Class 3: various cosmetics, nail polish, fragrances, toothpaste, sun screen, deodorants, shaving foam, lotions and creams <i>and a variety of other goods</i> ; in Class 18: handbags, purses, backpacks, briefcases, cosmetic bags and toiletry cases sold empty, vanity cases sold empty, wallets, and change purses; in Class 21: cosmetic brushes, facial sponges, hair brushes, etc.]	7 cited registrations, all owned by different entities: “HYDRO SEAL” [non-medicated moisturizing component used as an ingredient in fragrance and toiletry products]; “HEAT SEAL” [hair conditioners, gels, and sprays]; “SILKEN SEAL” [hair shampoos, conditioners, etc.]; “SEAL ‘N PROTECT” [hair conditioner]; “SEALSKIN” [preparation for filling skin pores with an innocuous material to keep out certain irritants]; “SEAL PAK” [fanny packs, hip packs, and waist packs]; “SEALCO” [mail order services in the field of luggage]	Turner	No

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5-27	EX	75782548	Ernesto G. Castro	Quinn* Hohein Chapman	2(e)(2); whether applicant's mark is registrable under Section 2(f)	Refusal Reversed		"ARIZONA AFO" [orthotic footwear]		Bell	No
5-27	EX	76236222	SRO Management, LLC	Hanak* Hohein Bottorff	genericness; whether, if not generic, applicant's mark is registrable under Section 2(f)	Refusal Reversed (and applicant's disclaimer of words RESTAURANT & MARTINI BAR accepted)		"CONTINENTAL RESTAURANT & MARTINI BAR" [restaurant and bar services]		Fromm	No
5-28	EX EX EX	76189418 76189419 76189421	Expand Beyond Corp.	Quinn Bottorff* Drost	2(e)(1)	Refusal Affirmed in all three cases		"POCKET PERFORMANCE VIEWER," "POCKET OBJECT VIEWER," and "POCKET COMMAND CENTER" [all three marks for computer software to monitor, manage, and troubleshoot databases via wireless devices such as personal digital assistants or cellular telephones]		Sloan	No
5-28	EX EX	75291235 75354127	Parisi	Hairston Chapman Rogers*	2(a) [false suggestion of a connection]; 2(e)(1)	Refusal Affirmed under 2(e)(1) in both applications		"WHITEHOUSE" [printed publications, namely, magazines featuring adult entertainment] and [providing, via the Internet, entertainment featuring adult subject matter]		Madden	No

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5-28	OPP (R)	91120345	Green Bay Packers, Inc. and National Football League Properties, Inc. v. Marc A. Sebor	Cissel Walters* Drost	2(d); claim preclusion; 2(a) [false suggestion of a connection]; dilution	Request for Reconsideration Granted and Opposition Sustained under 2(d)	a number of marks incorporating the words "GREEN BAY PACKERS," "PACK," and "PACKERS" [for a variety of goods and services, including food products]	"PACKARONI" [pasta]			No
5-28	CANC	92029327	DM Enterprises & Distributors, Inc. v. Ruta Maya Royalty, Ltd.	Quinn Chapman* Holtzman	2(d)	Petition to Cancel Denied	"CUBITA" (in stylized form) [coffee]	"CUBITA" [coffee]			No
5-28	OPP	91125553	Think Computer Corp. v. H. Co. Computer Products, Inc.	Simms Rogers* Drost	2(d)	Opposition Sustained	"THINK COMPUTER" [computer repair and consulting services, resale of computer hardware and software, and other related goods and services]	"THINK! COMPUTER PRODUCTS" (and design) [computers and a variety of related computer products]			No
5-28	OPP	91120520	Texaco Inc. v. Pennzoil-Quaker State Co.	Hohein Bucher* Drost	de jure functionality; whether, if not de jure functional, applicant's claimed mark has acquired distinctiveness under Section 2(f)	Opposition Sustained on basis of de jure functionality and lack of acquired distinctiveness		"the color clear used on containers" for applicant's goods [motor oil]			No

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